



State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

DIVISION OF WATER QUALITY
Walter L. Baker, P.E.
Director

C/007/039 Incoming
cc: Steve C.

OK

Water Quality Board
Paula Doughty, Chair
Steven P. Simpson, Vice-Chair
Myron E. Bateman
Clyde L. Bunker
Merritt K. Frey
Darrell H. Mensel
Leland J. Myers
Neal L. Peacock
Gregory L. Rowley
Amanda Smith
Daniel C. Snarr
Jeffery L. Tucker
Walter L. Baker
Executive Secretary

August 11, 2011

CERTIFIED MAIL
(Return Receipt Requested)

Mr. Erwin Sass, General Manager
Dugout Canyon Mine
P.O. Box 1029
Wellington, UT 84542

Dear Mr. Sass:

Subject: Upset Determination for Total Dissolved Solids based on Part III.H of Utah
Pollutant Discharge Elimination System (UPDES) Permit #UT0025593 and
Dugout Letter of March 21, 2011

In a letter dated December 9, 2010, the Executive Secretary of the Utah Water Quality Board declared that Dugout Canyon Mine met all the requirements to establish an upset condition for the total iron parameter at Outfall 005 of your UPDES permit UT0025593. On January 6, 2011, Dugout Canyon Mine applied for the determination of an upset condition for the discharge of total dissolved solids (TDS) at Outfall 005. As a basis for the request, Dugout personnel cited the same thermal event that was the basis for granting the total iron upset condition. As we have agreed with the granting of an upset condition for total iron, we also agree with the establishment of an upset condition for total dissolved solids. The granting of an upset condition for total iron and total dissolved solids covers the initial periods of discharge of non-compliant water from the sealed 9th East Entries, from October 2010 to February 2011.

The letter of December 9th, from the Executive Secretary, also required some type of compliance schedule be developed to resolve the total iron effluent violation. The Mine responded by ceasing the discharge from Outfall 005 on February 1, 2011. Dugout Canyon Mine is presently in compliance with its UPDES permit requirements for total iron and total dissolved solids as there is no discharge. However, even though the Mine is presently in compliance with its UPDES permit, there is only limited storage capacity for the noncompliant water and an eventual discharge might again be necessary. It was estimated by mine personnel that there is approximately one year of storage before the mine would need to discharge. However, it is hopeful that ground water levels will stabilize within the mine and possibly stop the discharge.

from the 9th East Entries before the mine discharges.

In your letter of March 21, 2011 you indicated that Mine personnel will make a decision in six months (from cessation of discharge) whether discharge will need to resume and a treatment system is necessary; or if the mine will contain the accumulated water from the 9th East Entries. If the continuation of a discharge is necessary, several treatment system options were proposed in your letter of March 21st, with two time schedules proposed for completion of these treatment systems. One schedule requires a nine month construction period, and the other proposes an eighteen month construction period.

We are in support of what the mine has done, and is doing, to resolve its non-compliances. However, based on the time schedules for construction given in your March 21st letter, it appears that there could be additional noncompliance time periods between when the mine may discharge contaminated water again from Outfall 005 and when a final treatment system may become fully operational.

Accordingly I formally request that the following be completed by the mine:

1. Submit formal notification by August 31, 2011 of whether the water level within the mine has stabilized or, if a future discharge is determined to be needed.
2. If a discharge is required, submit formal notification by August 31, 2011 as to whether or not a treatment system will be needed and, if needed, identify the type of treatment system that will be constructed.
3. Submit, by August 31, 2011, a detailed time schedule of the proposed wastewater treatment facility construction and initial operation. This proposed schedule should include a 30 day period for Utah Division of Water Quality engineering review and approval of the detailed plans and specifications. It should be as brief as possible to ensure compliance with effluent limits as soon as possible.

If future non-compliance does occur at the 005 Outfall, and enforcement is necessary, this will be handled by one of the following enforcement options:

- Normal non-compliance enforcement responses after the violations occur, such as Notice of Violation and Compliance Order (NOVCO) followed by a Settlement Agreement.
- A Stipulation and Consent Order, with stipulated penalties for each month of noncompliance executed before such non-compliance may begin.

Mr. Erwin Sass
August 11, 2011
Page 3 of 3

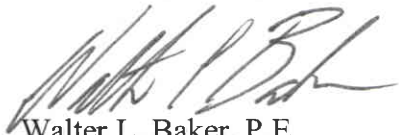
Dugout may choose which compliance and enforcement option it would like to pursue to address this compliance process. Please indicate within the next thirty days, which of the above options Dugout would like to implement to resolve future non-compliance if it were to occur.

Enclosed with this letter is a copy of a draft Stipulation and Consent Order which could be used for this compliance process. If this draft Stipulation and Consent Order is acceptable to Dugout, please sign it **but do not date it**. If desired, please contact Mike Herkimer for a time to meet and discuss the Stipulation and Consent Order. The advantage of a Stipulation and Consent Order would be that the mine moves forward on an agreed path to compliance, with known penalties for non-compliance events.

If you have any questions please contact Mike Herkimer of my Staff at 801-536-4386 or mherkimer@utah.gov.

Sincerely,

UTAH WATER QUALITY BOARD



Walter L. Baker, P.E.
Executive Secretary

WLB:MDH:mc

Enclosure(s):

cc: **Darron Haddock, DOGM**
Stephanie Gieck, EPA Region VIII